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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/963,527	09/27/2001	Karie Ogata	OMY-013	9266
23353	7590	03/05/2004		
RADER FISHMAN & GRAUER PLLC LION BUILDING 1233 20TH STREET N.W., SUITE 501 WASHINGTON, DC 20036			EXAMINER RUGGLES, JOHN S	
			ART UNIT 1756	PAPER NUMBER

DATE MAILED: 02/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/963,527

Applicant(s)

OGATA ET AL.

Examiner

John Ruggles

Art Unit

1756

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 08 January 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
(a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ they raise the issue of new matter (see Note below);
(c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: 16-29

Claim(s) rejected: 16-29

Claim(s) withdrawn from consideration: _____

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
10. ☐ Other: _____


John Ruggles
Examiner
Art Unit 1756

Continuation of 2. NOTE: (1) In view of applicants' remarks on page 11 in response to the rejection under the second paragraph of U.S.C. 112, it is still not clear how an accuracy of the "base pattern" could be matched or compared to that of the overlying resist unless the intervening "base film" had also been patterned or etched through the resist film, but no such patterning or etching of the intervening "base film" has yet been claimed (this comparison still lacks antecedent basis). (2) Also, in response to the previous rejection under this section of claim 18 (bridging pages 5-6 of the last Office action) interpreting the phrase "the measured data of the base film" to mean --the reflection ratio and the film thickness of the base film-- (based on step (d) of claim 16, on which claim 18 depends), claim 18 was amended for this phrase to read --the measured data of the thickness of the resist film--. This amendment is different from the previous interpretation, requiring further consideration. (3) Furthermore, independent claim 16 has been rendered indefinite by a current amendment in line 18 of step (e) found on page 5, adding the term "etc." to the list of coefficients that represent the degrees of contribution to the resist thickness. (4) Currently amended claim 20 is an incomplete sentence ending with "...exposing portion and the.". (5) The dependency of claim 28 has been currently amended from claim 21 to claim 22 and it is not clear why this change was not presented earlier in the prosecution of this case.

Continuation of 5. does NOT place the application in condition for allowance because: (6) the amendments have non been entered for the reasons discussed, (7) formal rejections still remain and new ones would be necessitated by current amendments as noted above, (8) new claim 30 has been added, but lacks the previously indicated allowable limitations of the formula in previous claim 24, which has now been cancelled. Therefore, at least claim 30 requires further consideration on the merits.



John Ruggles
Examiner
Art Unit 1756



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